

§ 156-91. Manner of construction across railroad.

(a) Duty of Railroad. – After the contract is let and the actual construction is commenced, if the work is being done with a floating dredge, the superintendent in charge of construction shall notify the railroad company of the probable time at which the contractor will be ready to enter upon the right-of-way of such railroad and construct the work thereon. It shall be the duty of the railroad to send a representative to view the ground with the superintendent of construction and arrange the exact time at which such work can be most conveniently done. At the time agreed upon the railroad company shall remove its rails, ties, stringers, and such other obstructions as may be necessary to permit the dredge to excavate the channel across its right-of-way. The work shall be so planned and conducted as to interfere in the least possible manner with the business of the railroad.

(b) Utilities Commission to Settle. – If the superintendent of construction and the railroad company shall not be able to agree as to the exact time at which such work can be done, including the time of beginning and the time to be consumed in such work, either party may give written notice thereof to the chairman of the Utilities Commission of the State, and thereupon the Utilities Commission shall cause an investigation to be made, and, after hearing both parties, shall fix the time of beginning such work and the time to be consumed in the work of construction, and the final determination of the Utilities Commission thereon shall be binding upon the superintendent of construction representing the district and the railroad company, and the work shall be done in such time as may be fixed by the Utilities Commission.

(c) Penalty for Delay. – In case the railroad company refuses and fails to remove its track and allow the dredge to construct the work on its right-of-way, it shall be held as delaying the construction of the improvement, and such company shall be liable to a penalty of twenty-five dollars (\$25.00) per day for each day of delay, to be collected by the board of drainage commissioners for the benefit of the drainage district as in the case of other penalties. Such a penalty may be collected in any court having jurisdiction, and shall inure to the benefit of the drainage district.

(d) Payment of Expense. – Within 30 days after the work is completed an itemized bill for actual expenses incurred by the railroad company for opening its tracks shall be made and presented to the superintendent of construction of the drainage improvement. Such bill, however, shall not include the cost of putting in a new bridge or strengthening or enlarging an old one. The superintendent of construction shall audit this bill and, if found correct, approve the same and file it with the secretary of the board of drainage commissioners. The commissioners shall deduct from this bill the cost of the excavation done by the dredge on the right-of-way of the railroad company at the contract price, and pay the difference, if any, to the railroad company. (1909, c. 442, s. 28; 1911, c. 67, s. 7; C.S., s. 5348; 1933, c. 134, s. 8; 1941, c. 97, s. 1.)